

OHIO BOARD OF TAX APPEALS

Chester L. Cypher,)
)
 Appellant,) (REAL PROPERTY TAX)
)
 vs.) DECISION AND ORDER
)
 Medina County Board of Revision)
 and Medina County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Chester L. Cypher, pro se
932 Sandy Lane
Medina, Ohio 44256

For the County Appellees - Dean Holman
Medina County Prosecuting Attorney
Christine M. Brothag
Assistant Prosecuting Attorney
72 Public Square
Medina, Ohio 44256

Entered May 5, 2009

Ms. Margulies, Mr. Johrendt, and Mr. Dunlap concur.

This appeal is now being considered following the issuance of an order on April 7, 2009 requiring the appellant to show cause as to why this board should not dismiss the instant appeal since the appellant did not file a copy of his notice of appeal with the Medina County Board of Revision as required by R.C. 5717.01. Neither the appellant nor the county appellees filed with this board a response to the show cause order.

A review of the record reveals that the county board of revision, in the statutory transcript certified to this board, indicated that its decision was mailed to the appellant on February 20, 2009. Appellant filed his notice of appeal with this board on February 27, 2009, but, according to the statutory transcript, did not file a copy of such notice of appeal with the county board of revision as required by R.C. 5717.01.

In determining whether we have jurisdiction in the instant appeal, we must consider R.C. 5717.01, which sets forth the jurisdictional requirements to appeal from a decision of a county board of revision to this board. R.C. 5717.01 reads in pertinent part, as follows:

“An appeal from a decision of a county board of revision may be taken to the board of tax appeals within thirty days after notice of the decision of the county board of revision is mailed as provided in division (A) of section 5715.20 of the Revised Code. *** Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, or authorized delivery service, with the board of tax appeals *and with the county board of revision.*” (Emphasis added.)

The requirements of R.C. 5717.01 are specific and mandatory in nature. When a statute confers the right of appeal, adherence to the terms and conditions set forth therein is essential to the enjoyment of the right conferred. *Am. Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147. The statutory requirements for filing a notice of appeal from a decision of a county board of revision are mandatory and jurisdictional. *Bd. of Edn. of Mentor v. Bd. of Revision* (1980), 61 Ohio St.2d 332. As strict compliance with R.C. 5717.01 is essential to vest jurisdiction with this board, and since the appellant did not file a copy of his notice of appeal with the county board

of revision within 30 days of the mailing of the decision letter issued by the county board of revision, we are constrained to find that the Board of Tax Appeals does not have jurisdiction to consider the instant matter. See *Hope v. Highland Cty. Bd. of Revision* (1990), 56 Ohio St.3d 68.

Even if this board had jurisdiction in this matter, we would affirm the dismissal of the appellant's complaint by the county board of revision. As noted in the April 7, 2009 show cause order, a review of the statutory transcript reveals that the county board of revision dismissed the appellant's complaint for tax year 2008 since it determined that such complaint was a second filing of a complaint within the same triennium period prohibited by R.C. 5715.19(A)(2), and the appellant failed to allege any of the four circumstances set forth in R.C. 5715.19(A)(2)(a)-(d). Copies of the decrease complaints filed with the county board of revision by the appellant for tax years 2007 and 2008 on February 25, 2008 and January 21, 2009, respectively, are included in the statutory transcript. S.T. at Ex. A. After convening a hearing for the appellant's 2007 complaint, the county board of revision rendered a decision to retain the value assessed by the auditor. S.T. at Ex. G. The county board of revision dismissed the appellant's 2008 complaint as a second filing within the same triennium period. S.T. at Ex. F, H, I. Since Medina County performed its triennial update in 2007 and the appellant filed a complaint in 2007, the appellant's 2008 complaint is the second filing of a complaint by the appellant within the same triennium period and therefore prohibited under R.C. 5715.19(A)(2).

R.C. 5715.19(A)(2), provides, in pertinent part, as follows:

“No person *** shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period, unless the person, board, or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:

“(a) The property was sold in an arm's length transaction, as described in section 5713.03 of the Revised Code;

“(b) The property lost value due to some casualty;

“(c) Substantial improvement was added to the property;

“(d) An increase or decrease of at least fifteen percent in the property's occupancy has had a substantial economic impact on the property.”

The 2008 complaint is not permitted as a second filing since the appellant failed to identify one of the above circumstances in said complaint. S.T. at Ex. A. In *Gammarino v. Hamilton Cty. Bd. of Revision* (1994), 71 Ohio St.3d 388, the Ohio Supreme Court held that a complainant must assert one of the four enumerated circumstances found in R.C. 5715.19(A)(2)(a) through (d) in order for the second complaint filed within the same triennium to vest jurisdiction. See, also, *Columbia Toledo Corp. v. Lucas Cty. Bd. of Revision* (1996) 76 Ohio St.3d 361, 362 (“*** [I]t is not the responsibility of a county board of revision to analyze raw data submitted by a taxpayer to determine whether any of the circumstances enumerated in R.C. 5715.19(A)(2) is applicable.”)

Based on the foregoing, had we had jurisdiction in this matter, we would have found that the appellant's 2008 complaint filed with the county board of revision failed to invoke the jurisdiction of the county board of revision and we would have affirmed its dismissal.

Based upon the aforementioned jurisdictional defect, it is the decision and order of the Board of Tax Appeals that the instant appeal must be and hereby is dismissed.

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